

(Security Classification)

FOREIGN SERVICE DESPATCH

FROM AMCONGEN, DAKAR, F.W.A.

157
DESP. NO.January 5, 1959
DATE

TO : THE DEPARTMENT OF STATE, WASHINGTON.

REF : None

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SUBJECT: Serious court difficulties of "Mobiloil AOF" in Guinea

Page 3 (7 Copies)

"Mobiloil AOF" is a limited liability French corporation operating in French West Africa under French law. However, it is a 100% American-owned enterprise, the parent organization being Mobile Overseas Oil Company, with headquarters at 151 East 42nd Street, New York City. Its business is the distribution of petroleum products.

During the last two months this American-owned French corporation has been involved in a very serious law suit begun in a Dakar court and now before a tribunal of the new Republic of Guinea. A decision is expected to be rendered by the Conakry tribunal January 9, 1959. If the judgment is unfavorable to Mobiloil it can cost the company the very sizeable sum of 215 million francs, that is to say a little under \$1,000,000.

In addition to this suit, some details of which are given below, Mobiloil's French representative in Guinea, Mr. Georges CHAMALEIX, was jailed January 1 at Conakry by Guinean officials on a charge of improperly selling properties which had been seized by the Government. Mr. Nelson PRICE, Sales Manager at Dakar for Mobiloil AOF, departed for Conakry on January 3 for the purpose of trying to release his representative from jail. In due course, I expect to hear results of his endeavors.

The history of this case is somewhat complicated and covers a period of over a year. Very shortly I hope to have a chronological story of what transpired from the Director of Mobiloil AOF, Mr. Marcel BAUR, who is asking his lawyers in Paris to prepare a brief for my information. For the Department's current information the following facts, as I understand them, are herewith submitted:

In June 1957 a subordinate of Mobiloil at Conakry, normally empowered to negotiate day to day modest sales agreements for the distribution of petroleum products, sold to one of its regular distributors, a certain Lebanese citizen named Antoine KAMOUH, a quantity of gasoline and kerosene far exceeding the amounts heretofore ever sold to Mr. Kamouh. Mr. Price informs me that once he had learned of this transaction he informed

his Conakry

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(Classification)

Desp. No. 157
From DAKAR

his Conakry employee that he had exceeded his authority as an "agent" and that the transactions were null and void. Apparently Mr. Kamouh made no protest for many a month, but after a long period of waiting he finally instituted a law suit in a Dakar court demanding that Mobiloil AOF fulfill its sales agreement and also pay damages. The amount of Mr. Kamouh's claim came to roughly 250 million francs. Mr. Kamouh apparently discovered that it was to his interest, following Guinea's independence on October 2, 1958, to have the case transferred from Dakar to Conakry. Mobiloil protested this action, claiming that by some kind of agreement dating back to December 1956 disputes involving Mobiloil AOF should come before the courts of French West Africa. This protest proved to no avail, for legislation of the new Republic of Guinea was apparently such that it claimed it had the right to have transferred from Dakar to Conakry any judicial action involving the Republic of Guinea when the "lieu" or place of events giving rise to any dispute actually occurred in the State of Guinea.

So much for the case of civil claim per se against Mobiloil AOF made by Mr. Antoine Kamouh.

The case, however, against Mobiloil is much more serious for it appears that a month or so ago a French lawyer employed by Mobiloil made a disparaging statement in the Conakry court regarding the plaintiff in the case, Mr. Kamouh. This lawyer allegedly referred to Mr. Kamouh as "ce boutiquier libanais" (this Lebanese shopkeeper). As a result, Mr. Kamouh succeeded in bringing criminal action against Mobiloil and in having the Guinea Government take steps to seize the properties of Mobiloil AOF in Guinea. Certain seizures were actually made around the 20th or 24th of November 1958. However, according to Mr. Nelson Price, no seizure of lubricating products was actually made by the Government of Guinea until November 28. A few days before this, and Mr. Price tells me that it was for the express purpose of avoiding sequestration, Mr. Price authorized his French representative at Conakry, Mr. Georges Chamaleix, to sell to the French firm SOCOPAO a certain number of drums of kerosene. Mr. Kamouh's further retaliation to this measure was to succeed in getting Guinea authorities to arrest Mr. Chamaleix and put him in jail. They also reportedly arrested and jailed the SOCOPAO representative who had purchased the kerosene.

As matters stand at this writing, Mr. Kamouh, a person not without influence at Conakry, appears to have succeeded in convincing the competent judicial authorities in Conakry that Mr. Chamaleix sold this kerosene after it had been actually seized by the Government. Mr. Chamaleix has denied this categorically, maintaining that receipts were signed and that the kerosene was actually sold before the date of seizure ordered by Guinea authorities. Mr. Price told me that some 300 barrels of kerosene were not delivered because SOCOPAO did not have adequate space and that at the time of the sale it was agreed that these 300 barrels would remain in Mobiloil's warehouse. These 300 barrels, of course, have now been sequestered by the Government when it made the final seizure inventory of Mobiloil AOF's movable properties.

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(Classification)

Encl. No. _____
Desp. No. 157
From DAKAR

Mr. Baur, the Director General of Mobiloil AOF, and Mr. Price have indicated to me that they did not wish to trouble the American Consulate General at Dakar about this court case unless it were absolutely necessary. In the first place, they were fully aware of the fact that Mobiloil AOF is a French corporation, albeit 100% American-owned. They had hoped that the case could be settled without having to appeal for assistance to the Consulate General at Dakar and they were by no means thinking in terms of calling upon the Consulate General for aid at this time. However, they felt that the situation in Guinea had now reached an extremely unfavorable turn and for this reason they wished to apprise me of the present state of Mobiloil's affairs at Conakry. Mr. Baur himself has seen Mr. Sekou TOURE on one or two occasions during the last month and has been given to understand that Guinea's President is sympathetic to Mobiloil's problem and wishes in no way to see his Government take any action prejudicial to the interest of this American firm. On the other hand, all parties concerned at Conakry are aware that Mr. Kamouh's influence is considerable and that the unfortunate statement of Mobiloil's lawyer has hurt the prestige and standing of Mobiloil in certain quarters at Conakry. Both Mr. Baur and Mr. Price have been assured by their Dakar lawyer that they stand a good chance of winning the civil suit which Mr. Kamouh brought against the firm for 215 million francs. I personally am inclined to feel a little less sanguine than they do. As for the criminal action (defamation of character) it remains to be seen what the court will do in this case. Penal action has already been extremely severe and at the present time all of Mobiloil AOF's properties are under Government seizure. I do not know when this aspect of the problem will be cleared up.

As soon as Mr. Baur's brief giving a chronological and precise history of this case has reached my hands, I will endeavor to furnish the Department with a detailed account of what is indeed an unfortunate experience befalling an important American business interest in the new State of Guinea.

Donald Dumont
American Consul General

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